

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

GUILLERMO OLIVAS,)
Plaintiff,)
v.)
WEESTERN REFINING RETAIL, LLC,)
Defendant.)

No. 3:19-cv-00308

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, Defendant Western Refining Retail, LLC files its notice of removal and as grounds therefor would show as follows:

1. Defendant is named as the defendant in Cause Number 2019-DCV-3370, a civil action commenced in the District Court of El Paso County, Texas, 120th Judicial District, styled “*Guillermo Olivas, Plaintiff, v. Western Refining Retail, LLC, Defendant*” (hereinafter referred to as “the state court action”). As required by 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served upon Defendant in the state court action are attached to this notice as Exhibit A.

2. The state court action described above is one over which this Court has original jurisdiction under 28 U.S.C. § 1332(a)(1), and may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(b)(2) in that it is an action between citizens of different states and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

3. At the time this action was commenced, Plaintiff was and is a citizen of the State of Texas. At the time this action was commenced, Defendant was and is a limited liability company whose sole member is Western Refining Southwest, Inc., a corporation organized under the laws of the State of Arizona, having its principal place of business in the State of Ohio.

Defendant is not and was not a citizen of the State of Texas wherein this action was brought. Further, as set forth in the prayer of Plaintiff's original petition in the state court action, Plaintiff seeks to recover monetary relief over \$200,000.

4. On October 22, 2019, Defendant was served with citation and a copy of Plaintiff's original petition in the state court action. This notice is therefore timely under 28 U.S.C. § 1446(b), as it is being filed within thirty (30) days from date of Defendant's first receipt of the pleading upon which Plaintiff's claims are based.

5. In accordance with 28 U.S.C. § 1446(d), the undersigned counsel for Defendant certifies that he has given notice of this removal to all adverse parties and has filed a copy of this notice with the Clerk of the District Court of El Paso County, Texas.

WHEREFORE, Defendant Western Refining Retail, LLC prays that this case proceed in this Court as an action properly removed thereto.

DATED: October 24, 2019

Respectfully submitted,

**WINDLE HOOD NORTON
BRITTAINE & JAY, LLP**
201 East Main, Suite 1350
El Paso, Texas 79901
(915) 545-4902 Telephone
(915) 545-4911 Fax

By: /s/ Joseph L. Hood, Jr.
JOSEPH L. HOOD, JR.
State Bar No. 09943250
hood@windlehood.com
Attorneys for Defendant
Western Refining Retail, LLC

CERTIFICATE OF SERVICE

In accordance with Rule 5 of the Federal Rules of Civil Procedure, I hereby certify that, on October 24, 2019, I electronically filed the foregoing instrument with the Clerk of the Court using the CM/ECF System, which will give notice of the filing of this instrument to Alejandro Acosta, III, Flores Tawney & Acosta P.C., 906 North Mesa, Second Floor, El Paso, Texas 79902.

/s/ Joseph L. Hood, Jr.
JOSEPH L. HOOD, JR.